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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (DAYTON)

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PLAYTEX PRODUCTS, INC.,

Plaintiff,

-against-

THE PROCTER & GAMBLE DISTRIBUTING COMPANY, et  
al,

Defendants.

-----X

885 Third Avenue  
New York, New York

July 11, 2003  
1:05 p.m.

CONTINUED DEPOSITION of MARIO TURCHI,  
taken by the Defendants, held at the  
above-mentioned time and place, before WALTER  
CHIRIBOGA, JR., a Notary Public of the State  
of New York.

<p style="text-align: right;">414</p> <p>1 A I do.</p> <p>2 Q It is the definition that you applied</p> <p>3 -- the concept you applied to come to the</p> <p>4 specific flatness tolerance for the Pearl</p> <p>5 plastic; right?</p> <p>6 A I think it is generally when one</p> <p>7 talks about a flatness tolerance, it is a</p> <p>8 generally accepted way of defining the</p> <p>9 flatness tolerance.</p> <p>10 Q How did you go about deciding what</p> <p>11 the geometric manufacturing tolerance for the</p> <p>12 Pearl plastic should be?</p> <p>13 A I was really just going by the 178</p> <p>14 patent and now the way the language was</p> <p>15 construed which was to have two opposite or</p> <p>16 opposed surfaces that are flat within</p> <p>17 geometric manufacturing tolerance. The court</p> <p>18 did not give a specific tolerance so I had to</p> <p>19 go about myself to figure out what a</p> <p>20 reasonable tolerance would be for that</p> <p>21 flatness so it is not so much that I</p> <p>22 determined it off of Pearl plastic. It is just</p> <p>23 that is what the court had recommended and so</p> <p>24 I went about trying to find what that</p> <p>25 tolerance ought to be.</p>	<p style="text-align: right;">416</p> <p>1 Q When you say this specific document,</p> <p>2 the page attached as Exhibit A?</p> <p>3 A The SPI report, yes.</p> <p>4 Q The page attached to Exhibit A of</p> <p>5 your report is a page numbered 33 on it. Do</p> <p>6 you see that?</p> <p>7 A Yes.</p> <p>8 Q This is a page from a larger</p> <p>9 document, I take it?</p> <p>10 A That's correct.</p> <p>11 Q What is the larger document?</p> <p>12 A I'm not sure what that was.</p> <p>13 Q Was this page given to you by your</p> <p>14 engineer?</p> <p>15 A Yes.</p> <p>16 Q So he didn't say look through this</p> <p>17 volume, this source, and I think it is in</p> <p>18 there? He actually gave you the page he</p> <p>19 thought was relevant; right?</p> <p>20 A I directed him to give me the page</p> <p>21 for the materials standards for the tolerance</p> <p>22 standards for low density polyethylene which</p> <p>23 he looked up and gave to me.</p> <p>24 Q Was that the first time you had ever</p> <p>25 seen this information?</p>
<p style="text-align: right;">415</p> <p>1 Q How did you find out what that</p> <p>2 reasonable flatness tolerance should be?</p> <p>3 A It is when we made a phone call to</p> <p>4 Chevron to see what they had -- how they</p> <p>5 specified their own material. It is when they</p> <p>6 referred us back to SPI and also in asking our</p> <p>7 engineer what he thought the tolerance what we</p> <p>8 might want to fall back on as a standard.</p> <p>9 He also had recommended the SPI, and</p> <p>10 when I spoke to Evan Hutchinson to see what</p> <p>11 they used at Playtex, he again referred me to</p> <p>12 SPI so I figured SPI seemed like a reasonable</p> <p>13 standard.</p> <p>14 Q SPI stands for what?</p> <p>15 A Society of Plastics Industry.</p> <p>16 Q Did any of the contacts that you</p> <p>17 mentioned, Chevron and Mr. Hutchinson and the</p> <p>18 engineer at your own firm, did they direct you</p> <p>19 to a specific source? What I am asking is did</p> <p>20 they say look for an SPI publication or look</p> <p>21 at a specific SPI publication if you</p> <p>22 understand what I am asking?</p> <p>23 A Well, we had our engineer had -- we</p> <p>24 have a library and he referred me to this</p> <p>25 specific document.</p>	<p style="text-align: right;">417</p> <p>1 A I had seen other specification sheets</p> <p>2 from SPI in the past, but this particular</p> <p>3 page? I may have seen it at some other point.</p> <p>4 I'm not sure.</p> <p>5 Q It did not look familiar to you when</p> <p>6 you saw it though?</p> <p>7 A Familiar in what sense?</p> <p>8 Q Like you had seen it before.</p> <p>9 A Like I said, I'm not sure if I had</p> <p>10 seen the polyethylene one before. Certainly</p> <p>11 the way the graphs are and -- you know, it is</p> <p>12 nothing unusual. I have seen many</p> <p>13 specifications for plastic and tolerance</p> <p>14 sheets and it looks pretty much like a lot of</p> <p>15 the other ones I have seen.</p> <p>16 Q This also has a copyright notice on</p> <p>17 the bottom. It says copyright to Society of</p> <p>18 Plastics Industry, Inc. Do you see that?</p> <p>19 A Yes.</p> <p>20 Q It says revised 1991. Did you make</p> <p>21 any inquiry as to whether or not there was a</p> <p>22 later edition to this document?</p> <p>23 A I did, and I believe Mr. Stabinsky</p> <p>24 helped me in trying to locate that document. I</p> <p>25 was trying to see if there was something more</p>

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1 updated and he was able to locate a document,  
2 but it turned out that the document was  
3 exactly the same.

4 Q This page was exactly the same?

5 A The tolerance for flatness was the  
6 same.

7 Q At least the part of this page that  
8 talks about a tolerance for flatness was  
9 identical to the later edition you found;  
10 right?

11 A Anything that was relevant to my  
12 report was the same.

13 Q Did you look at any other sources to  
14 find any other possible tolerance to apply?

15 A Other than SPI?

16 Q Yes. Let me be clear. Other than this  
17 page we have here?

18 A No. I thought this from SPI seemed --  
19 matched the bill in terms of what I was  
20 looking for.

21 Q So the answer is no, you didn't  
22 consider any other sources; right?

23 A Any other standards out there in the  
24 industry? I did not. I thought this was --  
25 again, from the three sources that I had asked

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1 it was recommended to you by Chevron, and your  
2 in-house engineer, and Mr. Hutchinson?

3 A I think the three sources I checked  
4 they referred me to this document and it is  
5 not the first time I had heard of SPI.  
6 Certainly in the course of the work I do  
7 whenever we need to find out the tolerance or  
8 specification of materials, we certainly  
9 referred in the past to SPI so it is not the  
10 first time we ever used them as a reference.  
11 They are certainly well known within the  
12 industry.

13 Q Do you know whether the work of which  
14 this one page is a part of has any other  
15 discussion of tolerances or how to use this  
16 chart?

17 A Elsewhere? You are asking me -- can  
18 you repeat the question?

19 MR. BURTON: Can you read it  
20 back?

21 (Record was read as requested.)

22 A I'm not sure about that. It seemed  
23 like I knew how to use it just from looking at  
24 it so I didn't look for any other ways to  
25 describe how to look at it. It is pretty

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1 and especially I think being most influenced  
2 by what Chevron had told us the fact they came  
3 up with the SPI standards seemed to me like if  
4 the company who is supplying the material is  
5 referring me back to that, it seems they are  
6 basically agreeing with this standard so why  
7 would I want to refute the standard they had  
8 directed me towards.

9 Q How specific was the reference? By  
10 that I mean did they direct you to -- did they  
11 say the SPI standard for flatness or the SPI  
12 standard for low density polyethylene or some  
13 other?

14 A They said just to check the SPI  
15 standard for low density polyethylene, and  
16 they had said it is pretty much all the same  
17 within the industry. All the different low  
18 density polyethylenes are essentially the same  
19 and that is why one could apply this standard.

20 Q Regardless of what trade name was on  
21 or manufacturer was used, they all use the  
22 same SPI standard?

23 A That is right.

24 Q Is it accurate to say that you  
25 recognize the sources as authoritative because

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1 straight forward.

2 Q The first time in this case that you  
3 looked into the appropriate flatness tolerance  
4 to apply to Pearl plastic was after the  
5 court's ruling; is that right?

6 A That is correct.

7 Q Why didn't you look into it earlier?

8 A Because that is not how I had  
9 personally construed the claims so I felt  
10 there was no need to go there.

11 Q On page three of your supplemental  
12 expert report you conclude the appropriate  
13 flatness tolerance to apply to the Pearl  
14 plastics finger grip is plus or minus .305  
15 millimeters for a total tolerance zone of .610  
16 millimeters; is that correct?

17 A That is correct.

18 Q Can you explain to me how you went  
19 from the page attached, Exhibit A, to that  
20 conclusion of the tolerance level?

21 A On the exhibit on the left hand side  
22 it shows for various features what the  
23 tolerance ought to be so I went down to the  
24 flatness, and it gives next to that it talks  
25 about the dimensions of the part.